

REMARKS

Claims 1-16 are pending and under consideration in the above-identified application. Claims 8-15 stand withdrawn from consideration pursuant to a restriction requirement.

In the Office Action dated May 16, 2008, the Examiner rejected claims 1-7 and 16.

With this amendment, claim 1 was amended and claims 17, 18 and 19 were added. No new matter has been introduced as a result of the amendments.

I. Objection To Claims

Claims 1-7 were rejected as being indefinite under 35 U.S.C. § 112, second paragraph for using a trademark in a claim. Applicant notes that the use “of a trademark... in a claim is not, *per se*, improper under 35 U.S.C. § 112. *Polyvision Corp. v. Smart Tech. Inc.*, 501 F. Supp. 2d 1042, 1063-64 (WD Mich. 2007). For example, a claim that contains trademarks of various fertilizers was proper where product sheets of each of the trademarked properties that identified the product make up were on file. *In re Kitten*, 1999 WL 33134953, *2 (Bd. Pat. App. & Interf. 1999). The instant claims clearly identify the limitation as a carbonaceous material including an electroconductive carbon black of very high purity, which is sold as “KETJENBLACK™.” Applicant maintains that this is not an improper use of a trademark in a claim. Applicant, however, amended claim 1 to remove the trademark “KETJENBLACK™.” As such, the use of the term “KETJENBLACK™” Accordingly, the Examiner’s rejection is now moot. As such, Applicant respectfully requests that the above rejection be withdrawn.

II. 35 U.S.C. § 103 Obviousness Rejection of Claims

Claims 1-5, 7 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitsufumi et al. (JP 09-035,718), in view of Takeuchi et al. (U.S. Patent No. 5,807,645) or over Takeuchi et al. (U.S. Patent No. 5,807,645) in view of Mitsufumi et al. (JP 09-035,718). Applicant respectfully traverses this rejection.

The claims require a non-aqueous electrolyte battery with an anode mixture with a carbonaceous material that absorbs gas and an active material that includes at least one of either lithium or lithium alloys. The claims also require a solid electrolyte that includes a fluorine-based high molecular material.

Takeuchi et al. teaches an electrode containing a carbonaceous diluent/graphite blend for "aiding the discharge rate capability of the charge transfer active materials." Takeuchi et al., Col. 2, lines 36-44. Takeuchi et al. does not teach or even fairly suggest a solid electrolyte that includes a fluorine-based high molecular material.

Mitsufumi et al. teaches the use of a carbonaceous material as a conducting material. Mitsufumi et al., Paragraphs [0023];[0024]. Mitsufumi et al. does not teach or even fairly suggest a solid electrolyte that includes a fluorine-based high molecular material. Thus, taken either singularly or in combination with each other, the cited references fail to teach or even fairly suggest the addition of a high surface area carbon to an anode or a cathode. As such, claims 1-5, 7 and 16 are patentable over the cited references. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mitsufumi et al. (JP 09-035,718), in view of Takeuchi et al. (U.S. Patent No. 5,807,645) or over Takeuchi et al. (U.S. Patent No. 5,807,645) in view of Mitsufumi et al. (JP 09-035,718) as applied above, in view of Bannai (US. Patent No. 6,503,656 and EP 1,063,713). Applicant respectfully traverses this rejection.

Bannai et al. teaches a laminate film as an exterior casing material for a battery. Bannai et al., Col. 2, lines 52-57. Bannai et al., however, does not teach or even fairly suggest an anode

mixture that includes at least one of either lithium or lithium alloys as an active material and a carbonaceous material that absorbs gas as discussed above in the claimed invention.

As discussed above, Mitsufumi et al. teaches the use of a carbonaceous material as a conducting material and Takeuchi et al. teaches an electrode containing a carbonaceous diluent/graphite blend. Mitsufumi et al., Paragraphs [0023];[0024]; Takeuchi et al., Col. 2, lines 36-44. All of the cited references, however, fail to teach or even fairly suggest a solid electrolyte that includes a fluorine-based high molecular material. Thus, taken either singularly or in combination with each other, the cited references fail to teach or even fairly suggest all the requirements of the claims. As such, claim 6 is patentable over the cited references. Accordingly, Applicants respectfully request that the above rejection be withdrawn.

III. Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

Dated: August 12, 2008

By: /David R. Metzger/
David R. Metzger
Registration No. 32,919
SONNENSCHN NATH & ROSENTHAL LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, Illinois 60606-1080
(312) 876-8000